

IN THE MATTER OF THE
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A SPECIAL EXCEPTION AND
VARIANCES ON PROPERTY LOCATED
ON THE SOUTHEAST CORNER
PHILADELPHIA RD AND MIDDLE
RIVER RD (9519 PHILADELPHIA RD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 91-498-XA
* * * * *

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner denying the requested special exception and thereby rendering the variance requests moot. The case was heard this day in its entirety.

The site is a parcel containing 1.05 acres of land, the bulk of which is zoned B.L.-C.N.S., with a small B.L. strip along one property line. The site is presently improved with a large frame abandoned building that was formerly a restaurant/tavern. The proposal before the Board is to raze this building and construct a gas-and-go service station by the Amoco Oil Company with a convenience store and a self-service carwash. The County Review Group (CRG) has approved this use contingent upon the Petitioner acquiring the necessary special exception.

Testifying for the Petitioner was Charles Bogdanowicz, the Amoco Oil Company project manager and engineer. He testified to the use of the site as proposed and evidenced on Petitioner's Exhibit No. 1 and Petitioner's Exhibit No. 2, which is a duplicate of Petitioner's Exhibit No. 1 color-coded for clarity. In addition to testifying at length to the plan, he specifically noted that at present there are no curbs or gutters on-site and that this plan provides curbing, gutters and sidewalks on both Middle River Road and Route 7. He further testified that no food would be prepared

Case No. 91-498-XA Amoco Oil Company

2

or consumed on the site but that the convenience store was strictly that --a convenience store. He further testified that the carwash is a two-minute operation strictly self-service and that the plan provides stacking for 20 automobiles availing themselves of the self-service carwash. He further noted that the entire operation was a 24-hour-a-day, 7-day-a-week operation with an attendant on-site at all times. He further testified that the variance requested for the 200.3 square foot sign was a standard Amoco sign and that it needed this much area to be in conformity with the pricing requirements under State regulations.

Thomas Hoff, a landscape expert, did a feasibility study on this site and prepared both plans, Plan 1 and Plan 2. He noted that in the extreme there was room for 52 cars on the site and still provide two-way access. This plan provides for road widening, curbs, gutters, sidewalks and entrances on both Middle River Road and Route 7 that conform to State regulations. He further testified that all the requirements of Section 502.1 of the Baltimore County Zoning Regulations (BCZR) had been complied with, that water and sewer was available to the site, and that the lighting and landscaping as proposed complied with County regulations. He further noted that the zoning manual on gas stations requires that a 6-foot ornamental board-on-board fence be erected on the property line to screen adjacent areas.

L. Rodney Compton, a real estate developer for Amoco Oil, testified that he had studied this site and that it met all the requirements necessary to develop this site. He particularly noted that there were no service stations on Route 7 from Golden Ring Road to the Harford County line, a distance of more than 10 miles.

Case No. 91-498-XA Amoco Oil Company

3

On cross-examination, he also admitted that on Route 40, which parallels Route 7 less than 1/2 mile away, there were many service stations.

People's Counsel presented Dennis Wirtz, a senior planner for Baltimore County, who testified in opposition to the use of this site as a gas-and-go. It was his opinion that there were other uses under the B.L. zoning that would not impact upon the residential homes in the area to the extent that the proposed service station would.

Lawrence Clow, the property owner to the south of the site, testified in opposition to its use as a service station. It was his opinion that this station was out of character with the neighborhood, that there were ample stations provided along Route 40, and that there was no need for any more gas stations.

Gloria Turner, the president of the Nottingham Improvement Association, testified that traffic was already a problem at this site and that the Association feared the run-off effects of storm water from the site. On cross-examination, she admitted that the Nottingham Improvement Association did not oppose the large shopping center directly across the street.

Hunter E. Bush and Thomas Cagle both testified in opposition to the proposal and the fear that additional problems would be created by its use.

The Board will note that directly opposite the site on Middle River Road there is already commercial use, a 7-11 store. Directly across Route 7 there is a large shopping center. To the west of the site there are two residences and then a large warehousing operation. While there are two houses to the west of the site, one

Case No. 91-498-XA Amoco Oil Company

4

to the east of the site, and a housing development diagonally across Route 7, this intersection can certainly be considered a mixed-use intersection. The Board will note that when the property was used as a restaurant/tavern there were many complaints about the patrons' behavior, noise, debris, and the parking problems. None of these problems would be apparent in the proposed use. The Board will also note that, while there is a plethora of service stations along Route 40, there are absolutely none along Route 7. This indicates that not only commuters using Route 7 but residents using Route 7 must detour to Route 40 to obtain the services they require. From the testimony and evidence, the Board can see no detriment to the health, safety and welfare of the neighborhood by the proposed use. The Board will further note that the intersection of Middle River Road and Route 7 is already a signalized intersection. From the testimony and evidence, the Board will find as a fact that all the requirements of Section 502.1 of the BCZR have been met, and that Sections 230.13 and 405 have also been complied with. It is therefore the opinion of this Board that the proposed service station complies with all Baltimore County regulations and the petition to grant same is approved. In conjunction with the granting of the special exception for the gas-and-go service station, the variances requested in order to obtain a conformity to Petitioner's Exhibit No. 1 will also be granted.

ORDER

IT IS THEREFORE this 11th day of May, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the special exception to permit an automotive service station gas-and-go in the B.L.-C.N.S. zone be and the same

Case No. 91-498-XA Amoco Oil Company

5

is GRANTED; and it is further

ORDERED that a food store with less than 5,000 square feet and a carwash as uses in conjunction with the service station be and the same are GRANTED; and it is further ordered

ORDERED that the portion of the property zoned B.L. be permitted use for parking use in conjunction with the carwash; and it is further

ORDERED that the board-on-board fence and screening as proposed on Petitioner's Exhibit No. 2 be and the same is GRANTED and must be in full compliance with all Baltimore County zoning regulations regarding fencing and screening; and it is further

ORDERED that the standard Amoco sign be and the same is GRANTED as depicted on Petitioner's Exhibit No. 1 in compliance with all Baltimore County setback regulations.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
William T. Hackett
William T. Hackett, Chairman
S. Diane Levero
S. Diane Levero
Michael B. Sauer
Michael B. Sauer

IN THE MATTER OF THE APPLICATION * IN THE
OF AMOCO OIL COMPANY FOR A * CIRCUIT COURT
SPECIAL EXCEPTION AND VARIANCE * FOR
ON PROPERTY LOCATED ON THE
SOUTHEAST CORNER OF PHILADELPHIA *
ROAD AND MIDDLE RIVER ROAD * BALTIMORE COUNTY
(9519 PHILADELPHIA ROAD) *
15TH ELECTION DISTRICT * CG Doc. No. 24
5TH COUNCILMANIC DISTRICT *
LAWRENCE W. CLOW, PLAINTIFF * Folio No. 252
* File No. 92-CV-5341
ZONING CASE NO. 91-498-XA * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, S. Diane Levero, and Michael B. Sauer, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

No. 91-498-XA

June 14, 1991 Petition for Special Exception for Gas-N-Go; food store and carwash and Petition for Variance for no 10' planting strip and business sign filed by Anthony J. DiPaula, Esquire on behalf of Amoco Oil Company.
July 24 Comments of Baltimore County Zoning Plans Advisory Committee.
August 1 Publication in newspapers.
August 7 Certificate of Posting of property.
August 23 Hearing held on Petitions by the Zoning Commissioner.

Amoco Oil Company, File No. 92-CV-5341
Case No. 91-498-XA

September 13, 1991 Order of the Zoning Commissioner DENYING in part and DISMISSING in part said Petitions.
October 11 Notice of appeal received from Anthony J. DiPaula, Esquire on behalf of Amoco Oil Company.
April 9, 1992 Hearing before the Board of Appeals.
May 7 Opinion and Order of the Board GRANTING Petitions.
June 5 Order for Appeal filed in the Circuit Court for Baltimore County by Michael P. Tanczyn, Esquire on behalf of Lawrence W. Clow, Protestant.
June 8 Certificate of Notice sent to interested parties.
June 9 Petition to accompany appeal also filed in the Circuit Court for Baltimore County by Mr. Tanczyn.
June 16 Notice of Appeal and Petition on Appeal filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
June 17 Second Certificate of Notice sent to interested parties.
July 2 Transcript of testimony filed.

Petitioner's Exhibits:

1. Plan
2. Duplicate of Exhibit #1, color coded
- 3A. Photograph
- 3B. Photograph
4. Detail 6 x 10 Amoco ID sign

People's Counsel Exhibits:

1. Sign-in Sheet
2. Planning staff comments /memo dated 8/06/91 /Pat Keller to Arnold Jablon
3. Philadelphia Road Corridor Study
- 4A. Resolution 7-92 /Philadelphia Road Corridor Study
- 4B. Proposed Amendments to Resolution 7-92
- 5A-G. Photographs
- 6A & B. Service station locations
- 7A-M. Photographs

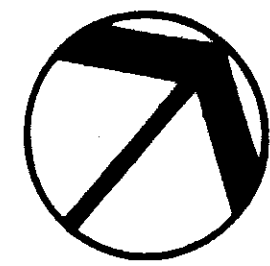
Amoco Oil Company, File No. 92-CV-5341
Case No. 91-498-XA

July 2, 1992 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

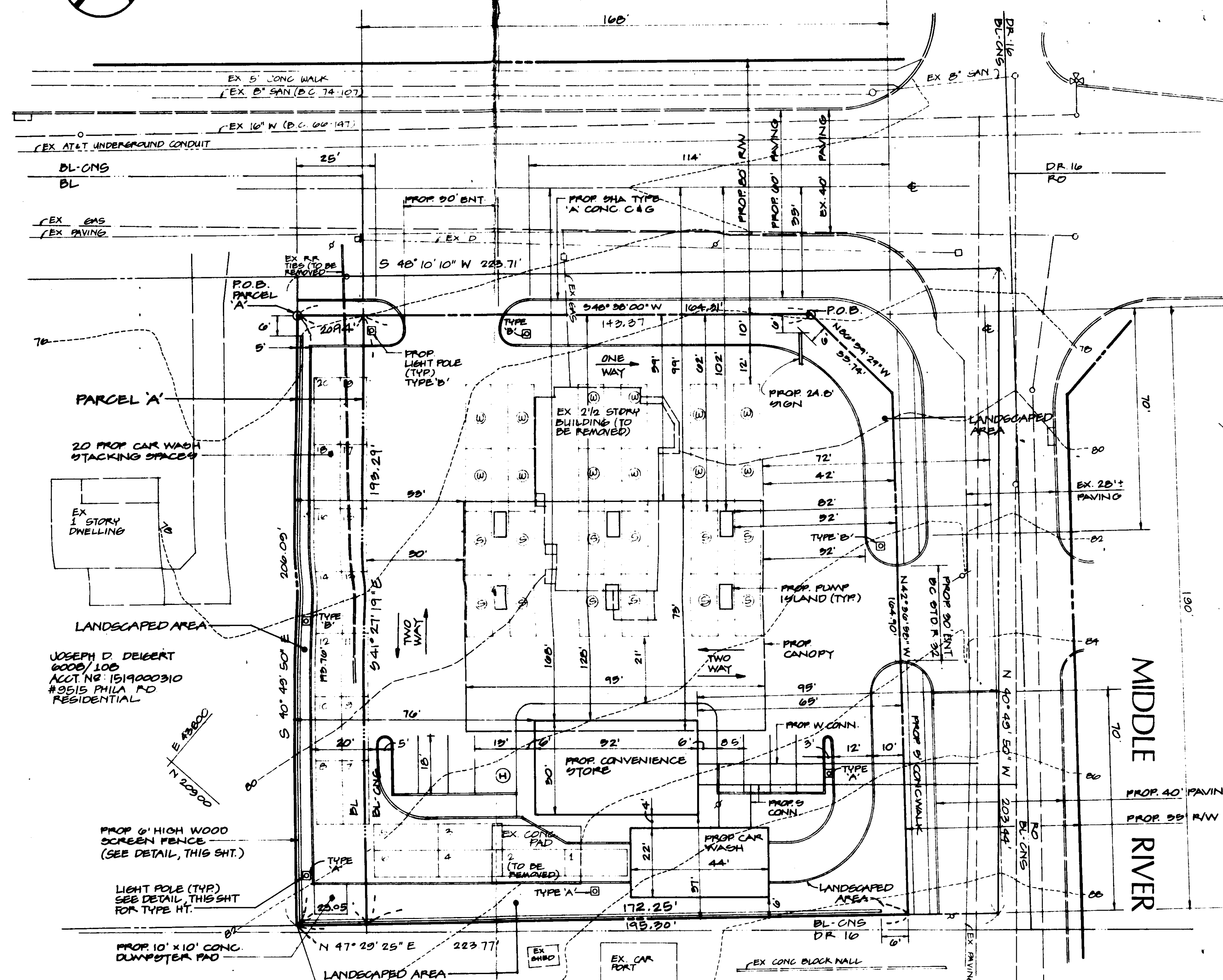
Respectfully submitted,
Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49
Old Courthouse, Basement
400 Washington Avenue
Towson, Maryland 21204 (410) 887-3180

cc: Michael P. Tanczyn, Esquire
Mr. Lawrence W. Clow
Phyllis C. Friedman - People's
Counsel for Baltimore County
Anthony J. DiPaula, Esquire
Mr. Charles T. Bogdanowicz -
Amoco Oil Company
Mr. Stanley Lloyd

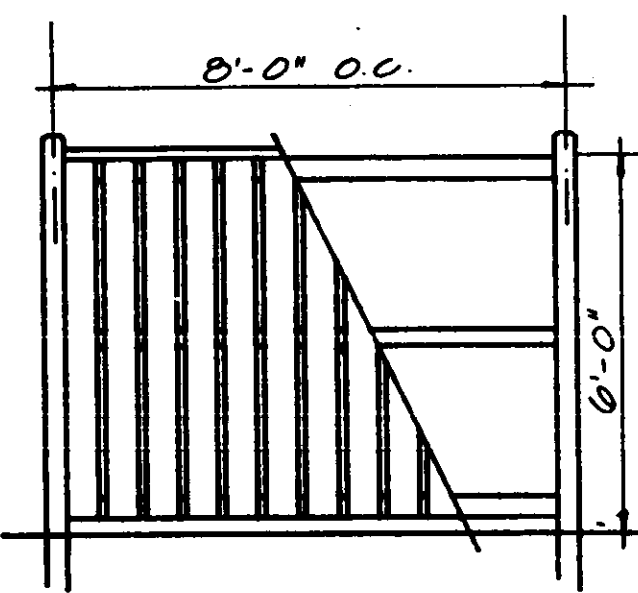


PHILADELPHIA ROAD

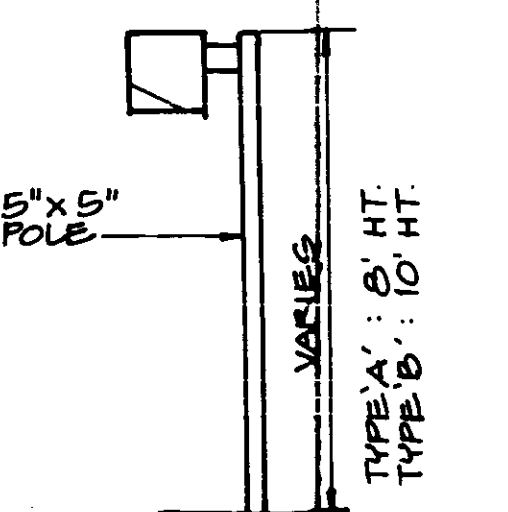
KINGS COURT SHOPPING PLAZA
Δ 49/47



S.T. FERRONE
4773/135
ACCT. NO. 1516151120



WOOD SCREEN FENCE
ELEVATION - NOT TO SCALE



LIGHTING DETAIL
NOT TO SCALE

WALTER KYLE
1803/157
ACCT. NO. 1511990010
1210 MIDDLE RIVER RD.
RESIDENTIAL

MIDDLE RIVER ROAD

SITE DATA

SITE ACREAGE:
GROSS: 1.05 AC +/- (45,800 SF)
NET: 0.84 AC +/- (36,571 SF)
EXISTING ZONING:
BL-CNS 0.74 AC +/- (32,316 SF)
BL 0.10 AC +/- (4,255 SF)
EXISTING USE: VACANT
PROPOSED USE: AUTOMOTIVE SERVICE STATION & CONVENIENCE STORE WITH CAR WASH (MACHINE OPERATED DRIVE THRU). NO OTHER ANCILLARY USES ARE PROPOSED.

SITE AREA REQUIREMENTS:
6 DISPENSER ISLANDS WITH 6 DISPENSERS, CAPABLE OF SERVING 12 CARS AT ONE TIME
12 FUEL SERVICING SPACES @ 1500 SF/SPACE = 18,000 SF
CONVENIENCE STORE @ 1560 SF x 4 = 6,240 SF
CAR WASH @ 960 SF = 960 SF
TOTAL SITE AREA REQUIRED = 25,200 SF
TOTAL SITE AREA PROVIDED = 32,316 SF

SITE WIDTH REQUIREMENTS:
MINIMUM SITE WIDTH REQUIRED ALONG MAJOR STREET = 90'
SITE WIDTH PROVIDED = 168'

ACCESS POINTS:
NUMBER OF ENTRANCES ON MAJOR STREET = 1
NUMBER OF ENTRANCES ON MINOR STREET = 1

PARKING:
REQUIRED:
CONVENIENCE STORE - 1560 SF @ 5/1000 SF = 8 SP
PROPOSED: (INCLUDES 1 HANDICAPPED SP) = 8 SP

SERVICE/STACKING SPACES:
SERVICE STATION:
12 FUEL PUMPS @ 1 SERVICE SP + 1 STACKING SP/PUMP = 24
TOTAL STACKING SPACES REQUIRED FOR FUEL PUMPS = 24
TOTAL STACKING SPACES PROVIDED FOR FUEL PUMPS = 24

CAR WASH:
NUMBER OF CARS PROCESSED DURING 1/2 HR OF OPERATION = 10
NUMBER OF ADDITIONAL STACKING SPACES REQUIRED = 10
TOTAL STACKING SPACES REQUIRED FOR CAR WASH = 20
TOTAL STACKING SPACES PROVIDED FOR CAR WASH = 20

FLOOR AREA RATIO:
MAXIMUM ALLOWED = 3.00
PROPOSED = 2352 SF / 45,738 SF = 0.05

ADT'S:
CONVENIENCE STORE - 1560 SF (24 HRS @ 887/1000 SF) = 1,384
SERVICE STATION - 12 PUMPS @ 133/PUMP = 1,596
CAR WASH - 20 CARS/HR x 8 = 160
TOTAL ADT'S = 3,140

SETBACKS:	REQUIRED	PROVIDED
CANOPY:	10' FROM R/W	59
	25' FROM CL	42
MAIN STRUCTURE:	35' FROM R/W	99
	60' FROM CL	128
FUEL PUMP ISLAND:	15' FROM R/W	168
	40' FROM CL	62
SIGNS:	6' FROM R/W	102
	31' FROM CL	82

LANDSCAPE REQUIREMENTS:
LANDSCAPING WILL BE PROVIDED IN ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL. SEE SCHEMATIC LANDSCAPE PLAN, SHEET CRG-2.

LIGHTINGS:
LIGHT STANDARDS SHALL BE 8' HIGH WITHIN 80' OF RESIDENTIAL ZONE AND 10' HIGH BEYOND 80' OF RESIDENTIAL ZONE.

SIGNAGE:
ONE FREESTANDING ILLUMINATED SIGN 200.3 SF
3 CANOPY SIGNS, ILLUMINATED (BACK LIT)
2 BUILDING SIGNS, ILLUMINATED (BACK LIT)
ALL CANOPY AND BUILDING SIGNS SHALL COMPLY WITH SEC. 413 AND ALL ZONING POLICIES.

ALL STANDARD PARKING SPACES SHALL BE 8.5' x 18'. STACKING SPACES SHALL BE 8.5' x 20'. ALL PARKING, LOADING, MANEUVERING AND AISLE AREAS SHALL BE PAVED WITH A DURABLE AND DUSTLESS SURFACE OF BITUMINOUS CONCRETE AND SPACES ARE TO PERMANENTLY STRIPED.

CAR WASH DATA:
CAR WASH SYSTEM SHALL BE A SLANT SYSTEMS - MODEL 560 SERIES, AUTOMATIC ROLLER SYSTEM OR EQUIVALENT.
AVERAGE WASH CYCLE PER VEHICLE 1.5 MIN.
AVERAGE STAGING TIME PER VEHICLE 1.5 MIN.
TOTAL AVERAGE PROCESSING TIME PER VEHICLE 3.0 MIN.

ZONING HISTORY
CASE NO. 69
RECLASSIFICATION FROM A RESIDENTIAL USE AREA TO A COMMERCIAL USE AREA FOR SIX TOURIST CABINS.
ORDER GRANTED MAY 27, 1940.

PLANNING CRG NO. 2: XII-548
PUB. SER. CRG NO. 2: 81-073

LEGEND

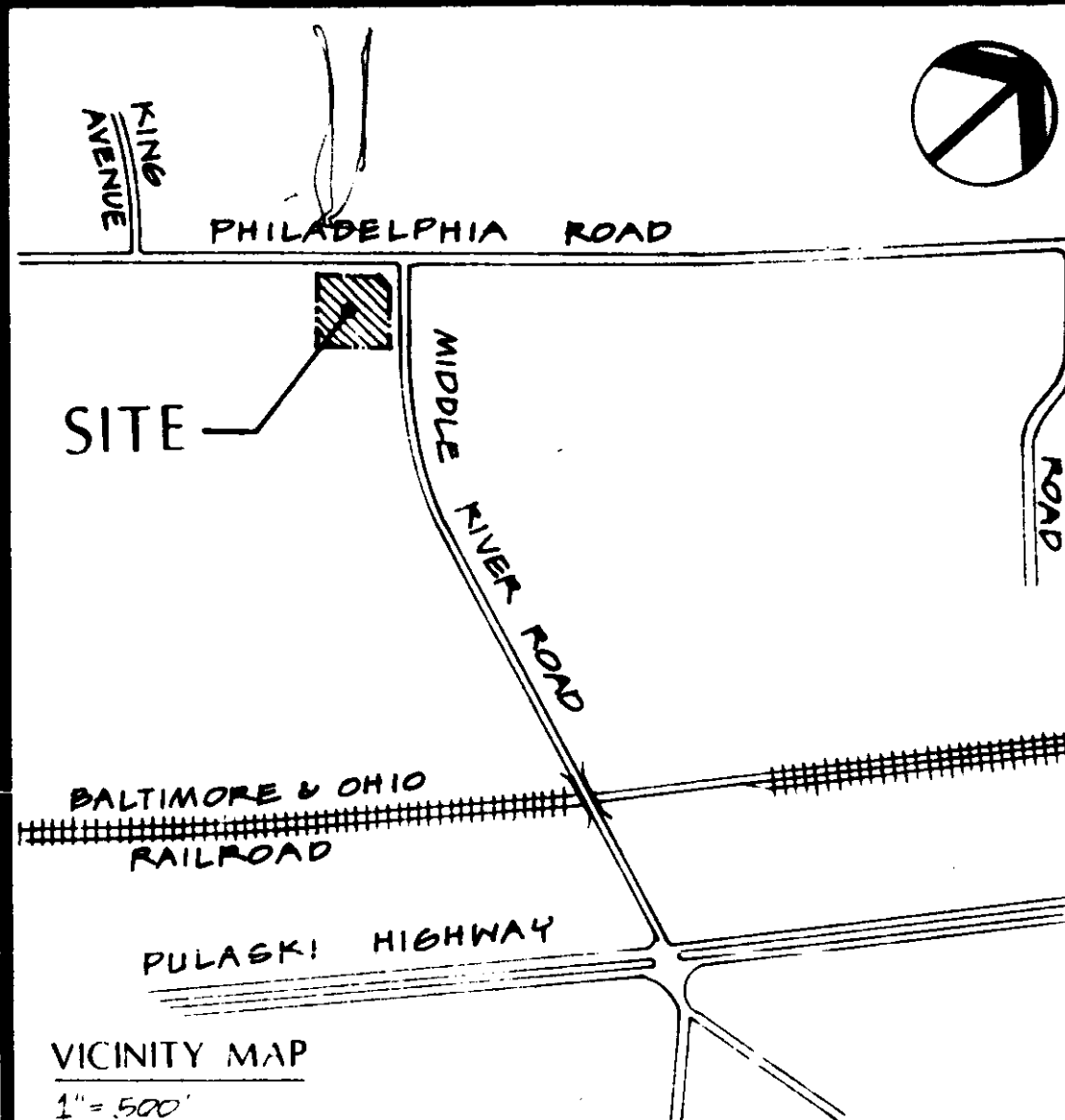
WAITING SPACE
SERVICE SPACE

OWNER

STANLEY LLOYD
200 S. MAIN ST.
DEL AIR, MD. 21014
DEED REF. 0517/430
ACCT. NO. 1907982390

DEVELOPER

AMOCO OIL COMPANY
90 CHARLES T. BOGDANOWICZ
14520 GREEN RD.
BALDWIN, MD. 21013
(301) 582-5514



GENERAL NOTES

- THERE ARE NO 25% OR GREATER SLOPES ON SITE.
- SITE IS PRESENTLY PAVED WITH AN EXISTING 2 1/2 STORY BUILDING. EXISTING 2-1/2 STORY STRUCTURE, FOUNDATION AND CONCRETE PADS ON SITE ARE TO REMOVED. THE "OLDE PHILADELPHIA INN", WEST INVENTORY SA 2438, HAS BEEN DETERMINED TO NOT BE A HISTORICALLY SIGNIFICANT SITE.
- THERE ARE NO EXISTING WELL OR SEPTIC AREAS ON SITE. THIS DEVELOPMENT WILL BE SERVED BY PUBLIC WATER AND SEWER.
- THERE ARE NO KNOWN UNDERGROUND TANKS, CRITICAL AREAS, ARCHAEOLOGICAL SITES, ENDANGERED SPECIES HABITATS OR HAZARDOUS MATERIALS ON SITE.
- THERE ARE NO EXISTING STREAMS, BODIES OF WATER OR SPRINGS ON SITE.
- THERE ARE NO FLOODPLAINS, FLOOD AREAS OR 100 YR. RIVERINE OR TIDAL AREAS ON SITE.
- LIGHT FIXTURES TO ILLUMINATE PARKING LOT SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM RESIDENTIAL LOTS AND PUBLIC STREETS. LIGHT STANDARDS SHALL BE PROTECTED FROM VEHICULAR TRAFFIC BY CURBING OR LANDSCAPING.
- SIDEWALKS WILL BE REQUIRED ON ALL PUBLIC ROADS.
- CAR WASH WILL BE PROVIDED WITH AN OIL/GREASE SEPARATOR INLET AND WASTE OIL TANK SUBJECT TO REQUIREMENTS OF THE BALTIMORE COUNTY DEPT.
- TOPOGRAPHY AND PROPERTY LINE DATA TAKEN FROM SURVEY PREPARED BY VITTI, ROBEL & ASSOCIATES, INC., DATED SEPT. 14, 1990.
- NO OTHER ACCESSORY USES PROPOSED.
- THE PREMISES SHALL BE MAINTAINED AT ALL TIMES IN A CLEAN AND ORDERLY CONDITION AND THERE SHALL BE NO STORAGE OF DAMAGED OR INOPERATIVE VEHICLES.
- HOURS OF OPERATION SHALL BE 24 HOURS/DAY.

ZONING PUBLIC HEARING REQUEST

- SPECIAL EXCEPTION TO PERMIT AUTOMOTIVE SERVICE STATION (GAS N' GO) IN A BL-CNS ZONE, SECTIONS 230.13 & 405.2.B.2.
- SPECIAL EXCEPTION TO PERMIT A CAR WASH AS USE IN COMBINATION WITH A SERVICE STATION, SECTION 405.4.D.4.
- SPECIAL EXCEPTION TO PERMIT A FOOD STORE OF LESS THAN 5000 SF AS USE IN COMBINATION WITH A SERVICE STATION, SECTION 405.4.D.8.
- SPECIAL EXCEPTION TO USE A SMALL PORTION OF THE SUBJECT PROPERTY (PARCEL "A") ZONED BL AS A CAR WASH (STACKING SPACES ONLY) ACCESSORY TO THE CAR WASH USE IN COMBINATION ON THE SAME SITE.
- VARIANCE FROM SECTION 405.4.B.2 TO ALLOW AN AUTOMOTIVE SERVICE STATION WITHOUT A 10' WIDE PLANTING STRIP ALONG THE REAR PROPERTY LINE ADJUTING A RESIDENTIAL ZONE AND ADJUTING TO THE PROPOSED AND REQUIRED TREE'S SCORING.
- VARIANCE FROM SECTIONS 413.2.F. & 405.4.B.4 TO PERMIT ONE (1) BUSINESS SIGN OF 200.3 SF IN LIEU OF THREE (3) SIGNS OF 100 SF AS PERMITTED.

PLAT TO ACCOMPANY PETITIONS FOR SPECIAL EXCEPTIONS AND VARIANCES

AMOCO OIL COMPANY
9519 PHILADELPHIA ROAD

WATERSHED: 6 SUBSEWERSHED: 14
COUNCILMAN: 10 DISTRICT NO. 5 CENSUS TRACT 4512
ELECTION: 1 STRICT NO. 15
BALTIMORE COUNTY, MD.

REVISIONS:

SCALE: 1" = 20'

DATE: 9/14/91

JOB NO.: 125/01

DESIGNED: TJH

DRAWN: JAJ

CHECKED: TJH

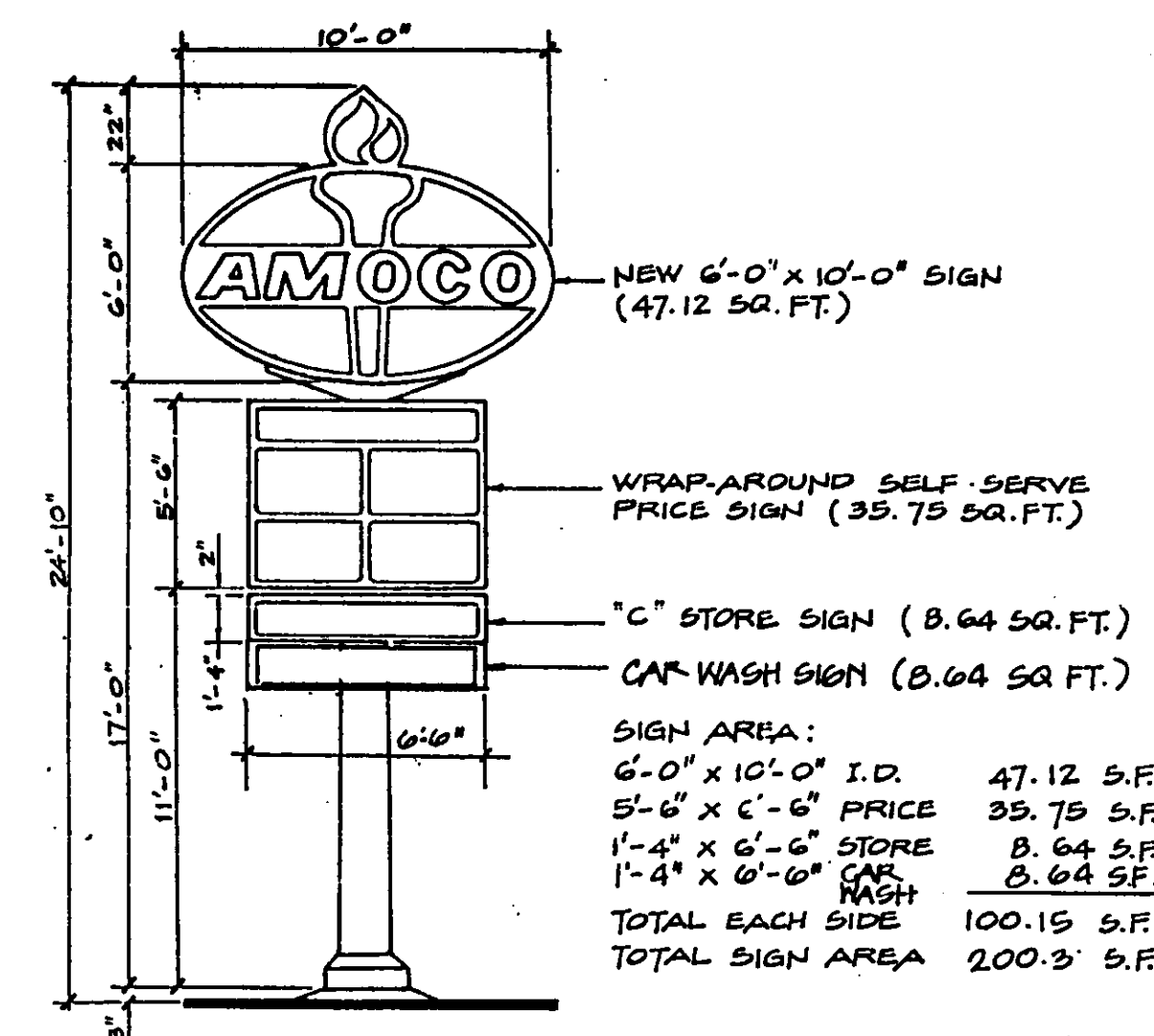
DRAWING NUMBER:

ZON-1

REPRODUCED

SHEET 1 OF 2

DETAIL 6'x10' IDENTIFICATION SIGN
NOT TO SCALE



SIGN DETAIL

AMOCO OIL COMPANY
9519 PHILADELPHIA ROAD

HOFF & ANTONUCCI
INC.
Land Development
Consultants
and Landscape
Architects

P.O. Box 27402
Towson, MD 21285-7402
301-648-1225

REVISIONS:

SCALE: N.T.S.
DATE: 6/14/91
JOB NO.: 125/01
DESIGNED:
DRAWN:
CHECKED:
DRAWING NUMBER:

ZON-2

SHEET 2 OF 2

16
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IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

IN RE: CASE NO. 91-498-XA

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

Case No.

ORDER FOR APPEAL

NOW COMES, Lawrence W. Clow of 1210 Middle River Road, Baltimore, Maryland, 21220, Appellant, by his attorney, Michael P. Tanczyn, Esq., and respectfully requests the Court enter the appearance of their attorney in this matter and enter an Appeal from the decision of the Board of Appeals of Baltimore County dated May 7, 1992 to the Circuit Court for Baltimore County.

MICHAEL P. TANCZYN, ESQ.
Attorney for the Appellant
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone: (410) 296-8823

I HEREBY ADMIT receipt of a copy of the Order for Appeal in Case No. 91-498-XA.

SECRETARY, Board of Appeals of
Baltimore County, Maryland

1

I HEREBY CERTIFY that, on this 11 day of June, 1992, a copy of this Order for Appeal was mailed, postage prepaid, to Anthony J. DiPaula, Esq., Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, Maryland, 21204, attorney for the Appellee.

MICHAEL P. TANCZYN, ESQ.

2

IN THE MATTER OF THE APPLICATION *
OF AMOCO OIL COMPANY FOR A *
SPECIAL EXCEPTION AND VARIANCE *
ON PROPERTY LOCATED ON THE *
SOUTHEAST CORNER OF PHILADELPHIA *
ROAD AND MIDDLE RIVER ROAD *
(9519 PHILADELPHIA ROAD) *
15TH ELECTION DISTRICT *
5TH COUNCILMANIC DISTRICT *
LAWRENCE W. CLOW, PLAINTIFF *
ZONING CASE NO. 91-498-XA *
IN THE *
CIRCUIT COURT *
FOR *
BALTIMORE COUNTY *
CG Doc. No. 24 *
Folio No. 252 *
File No. 92-CV-5341 *

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, S. Diane Levero, and Michael B. Sauer, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Plaintiff; Mr. Lawrence W. Clow, 1210 Middle River Road, Baltimore, Maryland 21220, Plaintiff; Anthony J. DiPaula, Esquire, Covahey and Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Defendant; Mr. Charles T. Bogdanowicz - Amoco Oil Company, 14520 Green Road, Baldwin, Maryland 21013, Defendant; Mr. Stanley Lloyd, 200 S. Main Street, Bel Air, Maryland 21014, Property Owner; Phyllis C. Friedman, Esquire, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice is attached hereto

Amoco Oil Company, File No. 92-CV-5341
Case No. 91-498-XA

and prayed that it may be made a part hereof.

Linda Lee W. Kuzmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Plaintiff; Mr. Lawrence W. Clow, 1210 Middle River Road, Baltimore, Maryland 21220, Plaintiff; Anthony J. DiPaula, Esquire, Covahey and Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Defendant; Mr. Charles T. Bogdanowicz - Amoco Oil Company, 14520 Green Road, Baldwin, Maryland 21013, Defendant; Mr. Stanley Lloyd, 200 S. Main Street, Bel Air, Maryland 21014, Property Owner; Phyllis C. Friedman, Esquire, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 8th day of June, 1992.

Linda Lee W. Kuzmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

4

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

IN RE: CASE NO. 91-498-XA

Case No. 24/252/92CV-5341

PETITION TO ACCOMPANY ORDER FOR APPEAL

NOW COMES, Lawrence W. Clow, Appellant, by his attorney, Michael P. Tanczyn, Esq., and pursuant to Maryland Rule B2(e) respectfully submits the following:

I. Action Appealed From

The Amoco Oil Company previously applied for a special exception and variances on property located at the southeast corner of Philadelphia Road and Middle River Road, known as 9519 Philadelphia Road in the 15th Election District and the 5th Councilmanic District. The requested special exception was to raze the existing frame building, formerly a restaurant/tavern, and construct a gas-and-go service station with a convenience store and self-service car wash.

Following hearing on the Petition in Case 91-498-XA the Zoning Commissioner for Baltimore County, by Order of September 13, 1991, denied the Petition for Special Exception and because of that action dismissed without prejudice the variances requested by

1

the Petitioner.

On appeal taken by the Petitioner, the matter was then considered by the County Board of Appeals of Baltimore County. The case was heard on April 9, 1992 by the County Board of Appeals which, by Order of May 7, 1992, granted the special exception.

The Appellant, who participated at all hearings, is the immediate neighbor to this property on Middle River Road where he and his family reside.

II. Error Committed by the Agency in Taking Such Action

The Appellant avers that the County Board of Appeals' decision which accompanied its Order:

A. was not supported by the evidence;

B. was based on error of law in construing the standard for grant of the special exception and for Section 405 of the Baltimore County Zoning Regulations;

C. was arbitrary, capricious and/or illegal in that the findings required under Baltimore County Zoning Regulations Section 405, Automotive Service Stations, specifically Section 405.3, require the deciding authority to "make each of the findings set forth below before granting any special exceptions required to permit an automotive service station" (extract attached) which the Board failed to do in this case. The only reference to that requirement found by the Appellant is on page 4 of the Board's opinion immediately above the word "order" where it is summarily stated that Section 405 requirements have been

2

complied with;

D. the County Board of Appeals failed to carefully consider issues raised by the Protestants since it decided the case according to its opinion on the same day it was heard. Notwithstanding the decision date on the Board's Order of May 7, 1992, the first paragraph of the County Board of Appeals' Opinion, in the last sentence, says "the case was heard this day in its entirety";

E. the requested use by special exception is in opposition to the Master Plan for the area which recommends that no service stations be located on Philadelphia Road in that sector based on the large number of gas-and-go or other service station conveniently located nearby on Route 40 just to the northeast and below the beltway and in other places nearby;

F. the County Board of Appeals failed to properly consider and give effect to the closure of other gas stations which have been abandoned within a one mile radius of the site where the service station was proposed to be established;

G. the standards of Baltimore County Zoning Regulations, Section 405.4 for individual sites include setbacks to protect adjacent properties, which points out the inadequacies of this site based on the Petitioner's request for variances from those requirements in order to attempt to shoe-horn this use in on a site which could not meet required setbacks;

H. the County Board of Appeals failed to properly

3

weigh the effect on the residential neighbors of a 24-hour carwash, gas-and-go and convenience store brightly illuminated as the Board was required to do under Section 502.1 of the Baltimore County Zoning Regulations to determine whether the use requested would be "detrimental to the health, safety or general welfare of the locality or would create a potential hazard from fire, panic or other dangers, tend to overcrowd the land, and cause undue concentration of population, be inconsistent with the property zoning classification, or in any other way inconsistent with the spirit and intent of these zoning regulations".

III. Relief Sought

Appellant respectfully requests this Court, after consideration of the pleadings herein, the transcript and following hearing:

A. Reverse the County Board of Appeals' decision of May 7, 1992;

B. Reverse and remand to the County Board of Appeals for further proceedings consistent with the Court's decision, including specific findings about any amendments to the Master Plan which effect this area or this Petition;

C. Order the Appellee to pay the costs of these proceedings, including the costs of the transcript of the proceedings before the County Board of Appeals;

D. Order the Appellee to pay the Court costs; and

E. Grant such other and further relief as the

nature of Appellant's cause may require in the Court's judgment.

Michael P. Tanczyn, Esq.
Attorney for the Appellant
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone: (410) 296-8823

I HEREBY CERTIFY that, on this 16th day of June, 1992, a copy of the foregoing Petition to Accompany Order for Appeal was mailed, postage prepaid, to Anthony J. DiPaula, Esq., Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, Maryland, 21204, attorney for the Appellee, and to County Board of Appeals for Baltimore County, 400 Washington Avenue, Towson, Maryland, 21204.

Michael P. Tanczyn, Esq.

IN THE MATTER OF THE APPLICATION :
OF AMOCO OIL COMPANY FOR A
SPECIAL EXCEPTION AND VARIANCE ON:
PROPERTY LOCATED ON THE SOUTHEAST
CORNER OF PHILADELPHIA ROAD AND :
MIDDLE RIVER ROAD :
(9519 PHILADELPHIA ROAD) :
15TH ELECTION DISTRICT :
5TH COUNCILMANIC DISTRICT :

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO. 92-CV-5341/
24/252

NOTICE OF APPEAL

Pursuant to Maryland Rule 84g, please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of May 7, 1992, in the above-captioned matter.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 16th day of June, 1992, a copy of the foregoing Notice of Appeal was delivered to the Administrative Assistant, County Board of Appeals, Rm. 49, Courthouse, Towson, MD 21204; and a copy mailed to Michael P. Tanczyn, Esquire, 606 Baltimore Ave., Suite 106, Towson, MD

21204; and Anthony J. DiPaula, Esquire, Covahey & Boozer, P.A., 614 Bosley Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION :
OF AMOCO OIL COMPANY FOR A
SPECIAL EXCEPTION AND VARIANCE ON:
PROPERTY LOCATED ON THE SOUTHEAST
CORNER OF PHILADELPHIA ROAD AND :
MIDDLE RIVER ROAD :
(9519 PHILADELPHIA ROAD) :
15TH ELECTION DISTRICT :
5TH COUNCILMANIC DISTRICT :

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO. 92-CV-5341/
24/252

PETITION ON APPEAL

People's Counsel for Baltimore County petitions on the following grounds:

1. The County Board of Appeals (CBA) approval of the special exception and variances for a gas and go service station, convenience store, and car wash was arbitrary, capricious, and unsupported by competent evidence.
2. The CBA disregarded the specific statement of the Baltimore County Master Plan that there should be no gas stations approved on Philadelphia Road outside the beltway.
3. The CBA did not reasonably address the issue of need, and disregarded the adequate supply of gas stations on nearby Pulaski Highway and Middle River Road.
4. The CBA failed to consider the specific site development standards applicable to gas stations.
5. The CBA failed to make any findings to justify setback or other variances, and ignored the overcrowding effect of the proposal.
6. In summary, the proposed gas station did not qualify for a special exception because of its unique incompatibility with the surrounding properties, because of its inconsistency with the

master plan, because of its failure to meet ordinary development standards, and because of the lack of need. In addition, there was no evidence to justify a variance under the standard of unnecessary hardship or practical difficulty.

7. Moreover, the CBA erred in stating that,

"The County Review Group (CRG) has approved this use contingent upon the Petitioner acquiring the necessary special exception." (CBA Opinion, p. 1).

As shown by the attached County Review Group comment May 9, 1991, the Office of Planning and Zoning did not recommend CRG approval at that time (see attached Exhibit A).

WHEREFORE, People's Counsel prays that the Circuit Court reverse the Order of the County Board of Appeals dated May 7, 1992.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 16th day of June, 1992, a copy of the foregoing Petition on Appeal was delivered to the Administrative Assistant, County Board of Appeals, Rm. 49, Courthouse, Towson, MD 21204; and a copy mailed to Michael P. Tanczyn, Esquire, 606 Baltimore Ave., Suite 106, Towson, MD

21204; and Anthony J. DiPaula, Esquire, Covahey & Boozer, P.A., 614 Bosley Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION * IN THE
OF AMOCO OIL COMPANY FOR A * CIRCUIT COURT
SPECIAL EXCEPTION AND VARIANCE *
ON PROPERTY LOCATED ON THE *
SOUTHEAST CORNER OF PHILADELPHIA * FOR
ROAD AND MIDDLE RIVER ROAD * BALTIMORE COUNTY
(9519 PHILADELPHIA ROAD) *
15TH ELECTION DISTRICT * CG Doc. No. 24
5TH COUNCILMANIC DISTRICT *
PEOPLE'S COUNSEL FOR BALTIMORE * Folio No. 252
COUNTY AND LAWRENCE W. CLOW, *
PLAINTIFFS * File No. 92-CV-5341
ZONING CASE NO. 91-498-XA * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, S. Diane Levero, and Michael B. Sauer, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Phyllis C. Friedman, People's Counsel for Baltimore County, Old Courthouse - Basement, Room 47, 400 Washington Avenue, Towson, Maryland 21204, Plaintiff; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Plaintiff- Mr. Clow; Mr. Lawrence W. Clow, 1210 Middle River Road, Baltimore, Maryland 21220, Plaintiff; Anthony J. DiPaula, Esquire, Covahey and Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Defendant; Mr. Charles T. Bogdanowicz - Amoco Oil Company, 14520 Green Road, Baldwin, Maryland 21013, Defendant; Mr. Stanley Lloyd, 200 S. Main Street, Bel Air, Maryland 21014, Property Owner; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice

Amoco Oil Company, File No. 92-CV-5341
Case No. 91-498-XA

is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Phyllis C. Friedman, People's Counsel for Baltimore County, Old Courthouse - Basement, Room 47, 400 Washington Avenue, Towson, Maryland 21204, Plaintiff; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Plaintiff- Mr. Clow; Mr. Lawrence W. Clow, 1210 Middle River Road, Baltimore, Maryland 21220, Plaintiff; Anthony J. DiPaula, Esquire, Covahey and Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 21204, Counsel for Defendant; Mr. Charles T. Bogdanowicz - Amoco Oil Company, 14520 Green Road, Baldwin, Maryland 21013, Defendant; Mr. Stanley Lloyd, 200 S. Main Street, Bel Air, Maryland 21014, Property Owner; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 17th day of June, 1992.

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT
IN RE: CASE NO. 91-498-XA

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO.: 92CV5341

ANSWER TO PETITION FOR APPEAL

Amoco Oil Company, Appellee, by its undersigned counsel, in answer to the Petition for Appeal and pursuant to Rule B9, states:

1. That the four (4) unnumbered paragraphs under "I. Action Appealed From" are admitted.

2. That with respect to the individually lettered subparagraphs of that portion of the Petition designated "II. Error Committed by the Agency in Taking Such Action", Appellee states:

A. Denied.

B. Denied.

C. Denied.

D. Denied, and further answering, Petitioner is attempting to read more into the language of the Opinion than that which is actually stated, and Appellant's interpretation is incorrect. Notwithstanding Appellant's incorrect

STANDARD 25

interpretation, the allegation of error and whether or not the case was decided the same day as the hearing is of absolutely no consequence.

E. Denied.

F. Denied, and further answering, whatever evidence of gas station closures and their distance to the site was presented, such evidence was insufficient to even establish the prima facie presumption of lack of a "reasonable public need", and not withstanding that fact, as the Board properly found, even if that presumption came into effect, it was more than rebutted by the market data and other evidence submitted by the Petitioner.

G. Denied, and absolutely unsubstantiated by the record and the exhibits in the case. Contrary to the allegations made, the site meets all of the required setbacks under Section 404.4.

H. Denied, and further answering, as the opinion of the Board states, "... the Board will find as a fact that all of the requirements of Section 502.1 of the BCZR have been met, and that Sections 230.13 and 405 have also been complied with".

WHEREFORE, having fully answered, the Appellee requests that this Honorable Court:

2

A. Affirm the County Board of Appeals' decision of May 7, 1992;

B. Order the Appellant to pay all of the costs associated with this Appeal; and

C. Grant unto Appellee such other and further relief as deemed requisite.

F. Vernon Boozer
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 17 day of June, 1992, a copy of the foregoing Answer to Petition for Appeal was mailed, first class, postage prepaid to Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204 and County Board of Appeals, Old Courthouse, Ground Floor, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaula

92-06-34.ds

3

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT
IN RE: CASE NO. 91-498-XA

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO.: 92CV5341

ANSWER TO PETITION FOR APPEAL

Amoco Oil Company, Appellee, by its undersigned counsel, in answer to the Petition for Appeal filed by the People's Counsel for Baltimore County and pursuant to Rule B9, states:

1. That the Petition for Appeal fails to state a claim upon which relief can be granted.

2. That it denies the allegations of Paragraph 1 of the Petition.

3. That it emphatically denies the allegation of Paragraph 2 of the Petition, and further answering, states that there is no such statement in the master plan regarding gas stations as alleged.

4. That it denies the allegations of Paragraph 3 of the Petition, and further answering, states that the Board's Opinion specifically references and summarizes the testimony of L. Rodney Compton as well as the opposing testimony of Lawrence

Clow, concerning the issue of need, and further directs the Court to that portion of the Board's Opinion wherein it notes "a plethora of service stations along Route 40, [but] there are absolutely none along Route 7".

5. That it denies the allegations of Paragraph 4 of the Petition.

6. That it denies the allegations of Paragraph 5 of the Petition, and further answering, states that there is no overcrowding effect of the proposal either in fact or in the record.

7. That it denies the allegations of Paragraph 6 of the Petition.

8. That with respect to the allegations of Paragraph 7 of the Petition, which allegations are generally denied, that paragraph is the subject of a Motion to Strike filed simultaneously herewith.

WHEREFORE, having fully answered, the Appellee requests that this Honorable Court:

A. Affirm the County Board of Appeals' decision of May 7, 1992;

B. Order the Appellant to pay all of the costs associated with this Appeal; and

2

C. Grant unto Appellee such other and further relief as deemed requisite.

F. Vernon Boozer
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 25 day of June, 1992, a copy of the foregoing Answer to Petition for Appeal was mailed, first class, postage prepaid to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204; Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204; and County Board of Appeals, Old Courthouse, Ground Floor, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaula

92-06-54.ds

3

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT
IN RE: CASE NO. 91-498-XA

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO.: 92CV5341

MOTION TO STRIKE

Amoco Oil Company, Appellee, by its undersigned counsel, moves to strike Paragraph 7 of the Petition on Appeal filed by the People's Counsel for Baltimore County, and as reasons, states:

1. That the People's Counsel for Baltimore County has noted an Appeal from the decision of the County Board of Appeals granting certain zoning approvals to the Appellee, Amoco Oil Company.

2. That in its Petition on Appeal, specifically Paragraph 7 thereof, the People's Counsel has attempted to introduce into the record a document which is not part of the record and was not introduced at the hearing before the Board of Appeals.

3. That the attempt to inject evidence, either documentary or otherwise, in its Petition on Appeal is improper and should be stricken in that appeals such as this are on the

record based upon the testimony and evidence presented before the Board of Appeals.

WHEREFORE, Appellee moves that this Honorable Court:

A. Strike Paragraph 7 as well as Exhibit A from the Petition on Appeal filed by the People's Counsel for Baltimore County; and

B. Grant unto Appellee such other and further relief as the Court deems requisite.

F. Vernon Boozer
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

MEMORANDUM OF AUTHORITIES

Baltimore County Charter, Section 604.
Baltimore County Code, Section 26-133.
Maryland Rule B7.

Anthony J. DiPaula

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 25 day of June, 1992, a copy of the foregoing Motion to Strike was mailed, first class, postage prepaid to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy

2

People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204; Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204; and County Board of Appeals, Old Courthouse, Ground Floor, 400 Washington Avenue, Towson, Maryland 21204.

Anthony J. DiPaula
Anthony J. DiPaula

92-06-55.ds

3

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

IN RE: CASE NO. 91-498-XA Case No. 92-CV-5341

* * * * *

ANSWER TO MOTION TO STRIKE

NOW COMES, Lawrence W. Clow, Appellant, by his attorney, Michael P. Tanczyn, Esq., and in answer to the Appellee, Amoco Oil Company's Motion to Strike paragraph 7 of the Petition on Appeal filed by People's Counsel for Baltimore County says:

1. That Appellant admits the allegations contained in paragraph numbered "1" of the Motion to Strike.

2. That Appellant denies the allegations contained in paragraph numbered "3" of the Motion to Strike and further answering says that in the second paragraph of its Opinion, the Board of Appeals in its concluding sentence said: "The County Review Group has approved this use contingent upon the Petitioner acquiring the necessary special exception." While the Appellee has correctly recited that the document attached to People's Counsel's Appeal was not part of the record and was not introduced before the County Board of Appeals at hearing, Appellee fails to consider the applicable Rule which allows additional information,

1

* IN THE CIRCUIT COURT
* FOR BALTIMORE COUNTY

with leave of court, to be presented to show or illustrate the erroneous conclusion of the County Board of Appeals as stated in its Opinion hereinabove mentioned. People's Counsel has attempted honorably to assist the court in its review of the Opinion of the County Board of Appeals. If the attachment to People's Counsel's Petition on Appeal is authentic, then the record otherwise presented to the Board would not support the statement contained in the Board's Opinion.

WHEREFORE, Appellant moves this Honorable Court:

A. Deny the Motion to Strike;

B. In the alternative, grant leave to permit the inclusion of People's Counsel's exhibit to its Petition on Appeal as additional evidence to be considered in the review of the County Board of Appeals' Decision by this court.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.
Attorney for the Appellant
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204
Telephone: (410) 296-8823

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POINTS AND AUTHORITIES

Maryland Rule B10

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

I HEREBY CERTIFY that, on this 15th day of February, 1992, a copy of the foregoing Answer to Motion to Strike with proposed Order was mailed, postage prepaid, to F. Vernon Booser, Esq. and Anthony J. DiPaula, Esq., Covahey & Booser, P.A., 614 Bosley Avenue, Towson, Maryland, 21204, attorneys for Appellee; and to Phillis Cole Friedman, Esq., People's Counsel for Baltimore County, and Peter Max Zimmerman, Esq., Deputy People's Counsel for Towson, Maryland, 21204; and to County Board of Appeals for Baltimore County, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

3

IN THE MATTER OF
THE APPLICATION OF
AMOCO OIL COMPANY
FOR A VARIANCE ON
PROPERTY LOCATED ON THE
SE/COR PHILADELPHIA ROAD
AND MIDDLE RIVER ROAD
(9519 PHILADELPHIA ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

IN RE: CASE NO. 91-498-XA Case No. 92-CV-5341

* * * * *

ORDER

UPON CONSIDERATION of the Motion to Strike filed heretofore by the Appellee, and the response thereto, it is by the Circuit Court for Baltimore County, this ____ day of _____, 1992,

ORDERED, that the Appellee's Motion to Strike is denied; or in the alternative, it is

ORDERED, that leave is granted to permit the inclusion of People's Counsel's exhibit to its Petition on Appeal as additional evidence to be considered in the review of the County Board of Appeals' Decision by this court.

JUDGE

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD OF APPEALS
AND ZONING VARIANCE
SE Corner Philadelphia Rd. and : OF BALTIMORE COUNTY
Middle River Road
(9519 Philadelphia Road)
15th Election District
5th Councilmanic District
AMOCO OIL COMPANY, Long Term : Zoning Case No. 91-498-XA
Lessee; STANLEY LLOYD, Legal
Owner, Petitioners/Appellants :

: : : : :
ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 14th day of February, 1992, a copy of the foregoing Entry of Appearance was mailed to Anthony J. DiPaula, Esquire, Covahey & Booser, P.A., 614 Bosley Ave., Towson, MD 21204, Attorney for Petitioners/Appellants; Gloria J. Turner, President, Nottingham Improvement Assn., 9226 Ravenwood Rd., Baltimore, MD 21237; Lawrence & Kathryn Clow, 1210 Middle River Rd., Baltimore, MD 21220; Jan Walter, 1202 Middle River Rd., Baltimore, MD 21220; Hunter E. Bush, 9223 Ravenwood Rd., Baltimore,

- 2 -
MD 21237; Marie Simoes, 1314 Spotswood Rd., Baltimore, MD 21237; Ed Kormanis, 9601 Philadelphia Rd., Baltimore, MD 21237; and Chad Kormanis, 1218 Jenny Rd., Baltimore, MD 21014, Protestants.

Phyllis Cole Friedman
Phyllis Cole Friedman

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND ZONING VARIANCE * ZONING COMMISSIONER
SEC Philadelphia Road and Middle *
River Road * OF BALTIMORE COUNTY
9519 Philadelphia Road *
15th Election District * Case No. 91-498-XA
5th Councilmanic District *
Stanley Lloyd, Legal Owner *
Amoco Oil Company, Long Term *
Lessee, - Petitioners *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request, pursuant to a Petition for Special Exception, permission to use the herein described property for an automotive service station (Gas-N-Go) in a B.L.-C.N.S. zone, as permitted under Baltimore County Zoning Regulations (B.C.Z.R.), Sections 230.13 and 405.2.B.2; a food store with less than 5,000 sq. ft. and a car wash, as uses in combination with an automotive service station as permitted under B.C.Z.R. Sections 405.4.D.4 and 405.4.D.8, and to use a small portion of the subject property (Parcel "A") zoned B.L. as a car wash (stack parking only) accessory to the car wash use-in-combination on the same site; and, pursuant to a Petition for Zoning Variance from Section 405.4.B.2 of the B.C.Z.R. to allow an automotive service station without a 10 ft. wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening; a variance from Sections 413.2.f and 405.4.B.4 to permit one (1) business sign of 200.3 sq. ft. in lieu of three (3) signs of 100 sq. ft. as permitted, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners, Stanley Lloyd (Legal Owner) and Amoco Oil Company (Long Term Lessee) appeared and were represented by Anthony J. DiPaula, Esquire. Appearing and testifying on behalf of the Petition were Thomas J.

ORDER RECEIVED FOR FILING
Date 9/13/94
By *Dr. Book*

Hoff, Landscape Architect, Nick Commodari, Zoning and Land Use Consultant, and L. Rodney Compton, Real Estate and Business Development Representative for Amoco Oil Company. Appearing and testifying as Protestants were Gloria J. Turner, President of the Nottingham Improvement Association, Lawrence W. Clow and Jan Walter. Appearing only as Protestants were Kathryn D. Clow, Hunter E. Bush, Marie Simoes, Ed Kosmanis and Chad Kosmanis.

Testimony indicated that the subject property, formerly known as "The Old Philadelphia Inn" is located at 9519 Philadelphia Road and consists of 1.05 acres +/- zoned B.L.-C.N.S. and B.L., as indicated on Petitioners' Exhibit No. 1. Testimony indicated that the Petitioners are desirous of razing the existing structure and constructing the proposed automotive service station in combination with a food store and car wash.

Thomas J. Hoff, Landscape Architect, testified on behalf of the Petition and generally described the layout of the property and the proposed use. Mr. Hoff testified that, in his opinion, the proposed use would have no detrimental impact on the surrounding community and that the requirements of Section 502.1 of the B.C.Z.R. were satisfied.

L. Rodney Compton, Real Estate Representative for Amoco Oil, testified at length regarding his analysis of the subject site in terms of population, future growth, need, and competition. Mr. Compton generally described the operation of the proposed facility and indicated that it would be in operation 24 hours with an attendant on duty at all times.

Nick Commodari, Zoning and Land Use Consultant, testified generally to the interaction between Petitioners and the various County agencies.

Gloria J. Turner, President of Nottingham Improvement Association, testified that the Association is against the granting of the requested relief in that their community is currently served by more than enough

- 2 -

service stations and convenience stores. She indicated that the subject intersection currently experiences congestion problems and that they oppose the requested sign and inadequate landscaping planned to buffer the adjoining residential area.

Larry W. Clow, an adjoining property owner, concurred with the testimony of Mrs. Turner.

Jan Walter, resident of the subject community, concurred with the testimony of Mrs. Turner, emphasizing that, in her opinion, there are currently too many gas stations in this community.

It is clear that the B.C.Z.R. permits the use proposed in a B.L.-C.N.S. zone by special exception. However, based on the testimony and evidence, it is clear that the proposed use would be detrimental to the prior uses in the vicinity. After reviewing all of the testimony and evidence presented, it appears that the Special Exception should not be granted. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioners.

After reviewing all of the testimony and evidence presented, it appears that the special exception should not be granted.

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have not shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. Clearly, the proposed use, if granted, would serve to overcrowd the subject site. There is simply insufficient area on the site to accommodate all of the uses proposed. The facts and circumstances show that the proposed use at the particular location described by Petitioners' Exhibit No. 1 would

- 3 -

have an adverse impact above and beyond that inherently associated with such a special exception use. *Schultz v. Pritts*, 432 A2d 1319 (1981).

The proposed use will be detrimental to the health, safety or general welfare of the locality, and will tend to create congestion in roads, streets, or alleys therein. It will be inconsistent with the purposes of the property's zoning classification, and inconsistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing held, it appears that the requirements of Section 502.1 have not been met and the health, safety, and general welfare of the community will be adversely affected. Therefore, the special exception should be denied.

The Petitioners have also requested the aforementioned variance relief. In view of the fact that the Petition for Special Exception has been denied, the Petition for Zoning Variances have been rendered moot and will, thereupon, be dismissed.

THEFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 13th day of Sept., 1991 that, pursuant to a Petition for Special Exception, permission to use the herein described property for an automotive service station (Gas-N-Go) in a B.L.-C.N.S. zone, as permitted under Baltimore County Zoning Regulations (B.C.Z.R.), Sections 230.13 and 405.2.B.2, a food store with less than 5,000 sq. ft. and a car wash as uses in combination with an automotive service station, as permitted under B.C.Z.R. Sections 405.4.D.4 and 405.4.D.8, and to use a small portion of the subject property (Parcel "A") zoned B.L. as a car wash (stack parking only) accessory to the car wash use-in-combination on the same site, in accordance with Petitioners' Exhibit No. 1, is hereby DENIED; and,

- 4 -

IT IS FURTHER ORDERED that, pursuant to the Petition for Zoning Variance from Section 405.4.B.2 of the B.C.Z.R. to allow an automotive service station without a 10 ft. wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening is hereby DISMISSED WITHOUT PREJUDICE; and,

IT IS FURTHER ORDERED that a variance from Sections 413.2.f and 405.4.B.4 to permit one (1) business sign of 200.3 sq. ft. in lieu of three (3) signs of 100 sq. ft. as permitted, in accordance with Petitioners' Exhibit No. 1, is hereby DISMISSED WITHOUT PREJUDICE.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

JRH:mmn
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 9/13/91
By Mr. Hoff

- 5 -

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an automotive service station (Gas-N-Go) in a B.L.-C.N.S. zone as permitted under B.C.Z.R. Sections 230.13 and 405.2.B.2; a food store with less than 5,000 sq. ft. and a car wash as uses in combination with an automotive service station as permitted under B.C.Z.R. Sections 405.4.D.4 and 405.4.D.8; and to use a small portion of the subject property (Parcel "A") zoned B.L. as a car wash (stack parking only) accessory to the car wash use-in-combination on the same site.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Long Term Lessee:

~~XXXXXXXXXXXX~~

Amoco Oil Company

(Type or Print Name)

By: *Charles T. Bogdanowicz*

Signature Charles T. Bogdanowicz

14520 Green Road

Address

Baldwin, Maryland 21013

City and State

Attorney for Petitioner:

F. Vernon Booser/Anthony J. DiPaula

(Type or Print Name)

Signature *F. Vernon Booser*

614 Bosley Avenue

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 828-9441

14520 Green Road - 21013 - 592-5914

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of June, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of August, 1991, at 9 o'clock A.M.

FILED 6/14/91 BY JLL
ANY TIME OF DAY
3RD HEARING

(over)

ORDER RECEIVED FOR FILING

Date

By

IN RE: PETITIONS FOR SPECIAL EXCEPTIONS AND ZONING VARIANCE
SEC Philadelphia Road and Middle River Road
15th Election District
5th Councilmanic District
Stanley Lloyd, Legal Owner
Amoco Oil Company, Long Term Lessee, - Petitioners

ORDER FOR APPEAL

Mr. Commissioner:

Please enter an appeal to the Board of Appeals from the Order of September 13, 1991 denying the Special Exception and dismissing the variances without prejudice issued by J. Robert Haines, former Zoning Commissioner for Baltimore County.

Anthony J. DiPaula
Anthony J. DiPaula
Covaleski & Booser, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441
Attorney for Petitioner

91-10-36.ds

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

September 3, 1991

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: Case No. 91-498-XA
Petitions for Special Exception and Zoning Variance
Stanley Lloyd, Legal Owner, Amoco Oil, Long Term Lessee, Petitioners

Dear Mr. DiPaula:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Exception and Zoning Variance have been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmn
cc: Peoples Counsel
cc: Petitioners and Protestants

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 405.4.B.2 to allow an automotive service station without a 10 ft. wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening; and Sections 413.2.f and 405.4.B.4 to permit one (1) business sign of 200.3 sq. ft. in lieu of three (3) signs of 100 sq. ft. as permitted.

The undersigned, legal owner(s) of the property situate in Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

The variances are necessary to effectively develop the property to modern standards; to effectively advertise the service and products available; and to comply with regulations governing parking and advertising.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Long Term Lessee:

~~XXXXXXXXXXXX~~

Amoco Oil Company

(Type or Print Name)

By: *Charles T. Bogdanowicz*

Signature Charles T. Bogdanowicz

14520 Green Road

Address

Baldwin, Maryland 21013

City and State

Attorney for Petitioner:

F. Vernon Booser/Anthony J. DiPaula

(Type or Print Name)

Signature *F. Vernon Booser*

614 Bosley Avenue

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 828-9441

14520 Green Road - 21013 - 592-5914

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of June, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of August, 1991, at 9 o'clock A.M.

(over)

June 14, 1991

Description of BL-CNS Portion of AMOCO SERVICE STATION, 9519 PHILADELPHIA RD., to Accompany Petition for Zoning Variances and Special Exceptions

BEGINNING FOR THE SAME at a point on the south side of Philadelphia Road (Maryland State Route 7, 80' R/W) at the southwest corner of the intersection of Philadelphia Road and Middle River Road, said point having the coordinate values of N 21.141.65, E 43.859.84.

Thence binding on the south side of said Philadelphia Road,
(1) South 48 degrees 38 minutes 00 seconds West 143.37 feet;

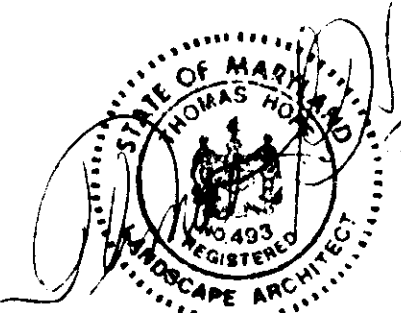
thence leaving the south side of Philadelphia Road and binding on the BL/BL-CNS zoning line,
(2) South 41 degrees 27 minutes 19 seconds East 193.29 feet;

thence leaving the BL/BL-CNS zoning line and binding on the southeast property line,
(3) North 47 degrees 29 minutes 25 seconds East 172.25 feet;

to the west side of Middle River Road, thence binding on the west side of Middle River Road,
(4) North 42 degrees 36 minutes 58 seconds West 164.90 feet;

(5) North 86 degrees 59 minutes 29 seconds West 35.74 feet;
to the point of beginning containing 0.74 acres of land more or less.

Note:
This Description has been prepared for zoning purposes only.



1717 York Road • Suite 1B • Lutherville, MD 21093 • 301-628-9225 • Fax 301-628-9229

June 14, 1991

Description of Parcel "A" the BL Portion of AMOCO SERVICE STATION, 9519 PHILADELPHIA RD., to Accompany Petition for Zoning Variances and Special Exceptions

BEGINNING FOR THE SAME at a point on the south side of Philadelphia Road (Maryland State Route 7, 80' R/W) 154.31 feet from the southwest corner of the intersection of Philadelphia Road and Middle River Road, said point having the coordinate values of N 21.033.07, E 43.736.53.

Thence leaving the south side of said Philadelphia Road and binding on the southwest property line,
(1) South 40 degrees 49 minutes 50 seconds East 193.76 feet;

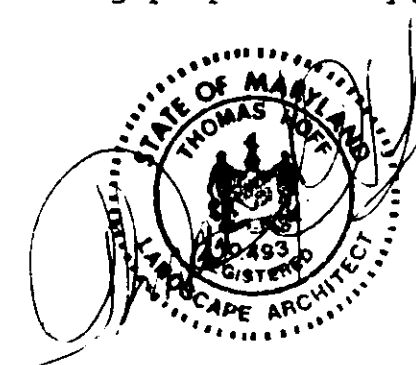
thence binding on the southeast property line,
(2) North 47 degrees 29 minutes 25 seconds East 23.05 feet;

thence leaving the southeast property line and binding on the BL/BL-CNS zoning line,
(3) North 41 degrees 27 minutes 19 seconds East 193.29 feet;

to the south side of Philadelphia Road, thence binding on the south side of Philadelphia Road,
(4) South 48 degrees 38 minutes 00 seconds West 20.94 feet;

to the point of beginning containing 0.10 acres of land more or less.

Note:
This Description has been prepared for zoning purposes only.



1717 York Road • Suite 1B • Lutherville, MD 21093 • 301-628-9225 • Fax 301-628-9229

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 8/2/91
Posted for: Special Exception & Variances
Petitioner: Stanley Lloyd, c/o Amoco Oil Company
Location of property: Phil Rd. & Middle River Rd.
Location of Signs: Along Phil Rd., south 12' from Middle River Rd.
Remarks: For property of Petitioner
Posted by: M. H. Hines Date of return: 8/2/91
Number of Signs: 2

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 12/28/91
Posted for: Appeal
Petitioner: Amoco Oil Co. Phil Rd. & Middle River Rd.
Location of property: Phil Rd.
Location of Signs: Along Phil Rd., south 12' from Middle River Rd.
Remarks: For property of Petitioner
Posted by: M. H. Hines Date of return: 12/28/91
Number of Signs: 1

microfilm

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Board of Zoning Appeals, has notice a public hearing on the proposed special exception for an automotive service station (Gas-Wash) located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-498-XA
SIC: Petroleum Store and Gas Station
111 W. Chesapeake Avenue
Towson, Maryland 21204
Hearing Date: Friday, August 23, 1991 at 9:00 a.m.
Special Exception: for an automotive service station (Gas-Wash) for a food store with less than 5,000 square feet and a car wash as uses in combination with an automotive service station, and to use a small portion of the subject property (Parcel "A") as a car wash in the east-west alley combination on the same site. Variance to allow an automotive service station without a 10 foot wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening, and to permit one (1) business sign of 200.3 square feet in lieu of the three (3) signs of 100 square feet as permitted.
Zoning Commissioner of Baltimore County
N.J.S. N.J.S.014 August 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/1, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/1, 1991.

THE JEFFERSONIAN,

Publisher

\$ 97.29

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Board of Zoning Appeals, has notice a public hearing on the proposed special exception for an automotive service station (Gas-Wash) located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-498-XA
SIC: Petroleum Store and Gas Station
111 W. Chesapeake Avenue
Towson, Maryland 21204
Hearing Date: Friday, August 23, 1991 at 9:00 a.m.
Special Exception: for an automotive service station (Gas-Wash) for a food store with less than 5,000 square feet and a car wash as uses in combination with an automotive service station, and to use a small portion of the subject property (Parcel "A") as a car wash in the east-west alley combination on the same site. Variance to allow an automotive service station without a 10 foot wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening, and to permit one (1) business sign of 200.3 square feet in lieu of the three (3) signs of 100 square feet as permitted.
Zoning Commissioner of Baltimore County
N.J.S. N.J.S.014 August 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/1, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/1, 1991.

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

Publisher

\$ 97.29

microfilm

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

6/14/91 H9100490

PUBLIC HEARING FEES	QTY	PRICE
250 ZONING VARIANCE (OTHER)	1 X	\$175.00
050 SPECIAL EXCEPTION	1 X	\$175.00
TOTAL:		\$350.00

LAST NAME OF OWNER: LLOYD

040440021MICHRIC \$350.00
000310PMD6-14-91

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

6/14/91 H9100490

PUBLIC HEARING FEES	QTY	PRICE
250 ZONING VARIANCE (OTHER)	1 X	\$175.00
050 SPECIAL EXCEPTION	1 X	\$175.00
TOTAL:		\$350.00

LAST NAME OF OWNER: LLOYD

040440021MICHRIC \$350.00
000310PMD6-14-91

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 8/6/91

Charles T. Bogdanowicz
1450 Green Road
Baltimore, Maryland 21013

RE:
Case Number: 91-498-XA
SIC: Petroleum Store and Gas Station
111 W. Chesapeake Avenue
Towson, Maryland 21204
15th Election District - 5th Councilmanic
Legal Owner(s): Stanley Lloyd
Long Term Lessee: Amoco Oil Company
HEARING: FRIDAY, AUGUST 23, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 147.29 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: F. Vernon Booser/Anthony J. DiPaola

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

JUNE 28, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-498-XA
SIC: Petroleum Store and Gas Station
111 W. Chesapeake Avenue
Towson, Maryland 21204
15th Election District - 5th Councilmanic
Legal Owner(s): Stanley Lloyd
Long Term Lessee: Amoco Oil Company
HEARING: FRIDAY, AUGUST 23, 1991 at 9:00 a.m.

Special Exception for an automotive service station (Gas-Wash) for a food store with less than 5,000 square feet and a car wash as uses in combination with an automotive service station; and to use a small portion of the subject property (Parcel "A") as a car wash (stack parking only) accessory to the car wash use-in-combination on the same site.

Variance to allow an automotive service station without a 10 foot wide planting strip along the rear property line abutting a residential zone and adjacent to the proposed and required fence screening; and to permit one (1) business sign of 200.3 square feet in lieu of three (3) signs of 100 square feet as permitted.

J. Robert Hines
Zoning Commissioner of Baltimore County

cc: Stanley Lloyd
Amoco Oil Company, c/o Charles T. Bogdanowicz
F. Vernon Booser/Anthony J. DiPaola

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

JULY 24, 1991

Anthony J. DiPaola, Esquire
614 Bosley Avenue
Towson, MD 21204

RE: Item No. 490, Case No. 91-498-XA
Petitioner: Stanley Lloyd
Petition for Zoning Variance

Dear Mr. DiPaola:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Stanley Lloyd
Mr. Charles T. Bogdanowicz



111 West Chesapeake Avenue
Towson, MD 21204

887-5353

Your petition has been received and accepted for filing this
26th day of June, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

James E. Hines
Chairman,
Zoning Plans Advisory Committee

Petitioner: Stanley Lloyd

Petitioner's Attorney: F. Vernon Booser

MICROFILMED

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: July 17, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner
FROM: Rahee J. Famili
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: June 25, 1991

Please see the C.R.G. comments for items number 476 and 490.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

June 25, 1991

TO: Zoning Commissioner
Office of Planning and Zoning
FROM: DIVISION OF GROUND WATER MANAGEMENT
SUBJECT: Zoning Item #490, Zoning Advisory Committee Meeting of
June 25, 1991, Mr. Stanley Lloyd, SEC Philadelphia and Middle
River Roads (#9519 Philadelphia Road), D-15, Public Water and
Sewer

COMMENTS ARE AS FOLLOWS:

Prior to approval of a Building Permit for construction, renovation
and/or installation of equipment for any existing or proposed food service
complete plans and specifications must be submitted to the Plans Review
Section, Bureau of Regional Community Services, for final review and
approval.

If lubrication work and oil changes are performed at this location, the
method providing for the elimination of waste oil must be in accordance with
the State Department of the Environment.

Prior to razing of existing structure(s), petitioner must contact the
Division of Waste Management at 887-3745, regarding removal and/or disposal
of potentially hazardous materials and solid wastes. Petitioner must
contact the Bureau of Air Quality Management regarding removal of asbestos,
887-3775.

Any abandoned underground storage tanks containing gasoline, waste oil,
solvents, etc., must have the contents removed by a licensed hauler and tank
removed from the property or properly backfilled. Prior to removal or
abandonment, owner must contact the Division of Waste Management at 887-3745.

SSF:rmp
490ZNG/GWRMK

RECEIVED
JUN 26 1991
ZONING OFFICE



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

JUNE 21, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: STANLEY LLOYD
Location: #9519 PHILADELPHIA ROAD
Item No.: 490 Zoning Agenda: JUNE 25, 1991
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by
this Bureau and the comments below are applicable and required to be
corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site
shall comply with all applicable requirements of the National Fire
Protection Association Standard No. 161 "Life Safety Code", 1988
edition prior to occupancy.

REVIEWER: *John J. Sullivan* Noted and
Planning Group Approved
Special Inspection Division Fire Prevention Bureau

JR/REK

Rec'd 6/25/91

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: July 9, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for June 25, 1991

The Developers Engineering Division has reviewed
the subject zoning items and we have no comments for
Items 463, 464, 465, 471, 478, 480, 484, 485, 487,
488, 489.

For Items 476 and 490, the previous County Review Group
Meeting Comments still apply.

For Items 481, 482 and 486, County Review Group
Meetings may be required.

For Item 481, Cockeysville Road is an existing road,
and no further improvements are required at this time.

In addition, entrances shall be a minimum of 24 feet
and a maximum of 35 feet wide. Depressed curb is to be
used with no curb returns to the property line.

Also, prior to removal of any existing curb for
entrances, the Developer shall obtain a permit from the
Bureau of Public Services (887-3321).

For Item 482, Hammonds Ferry Road and Second Avenue are
existing roads, and no further improvements are requested
at this time.

However, prior to removal of any existing curb for
entrances, the Developer shall obtain a permit from the
Bureau of Public Services (887-3321).

For Item 486, Pulaski Highway (U.S. Route 40) is a State
Road and any improvements, including entrances, are subject
to requirements and approval of the State Highway
Administration.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: August 6, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Lloyd/Amoco Oil Co., Item No. 490

In reference to the petitioner's request, staff offers the
following comment:

This site is located in the Philadelphia Road Corridor Study
Area. The study area boundaries are shown on Exhibit A. The
Baltimore County Planning Board adopted land uses and transportation
recommendations for this area on July 18, 1991.

During the plan preparation process, representatives of the
residential community serving on the Philadelphia Road Corridor Study
Advisory Group expressed strong opposition to allowing automotive
service stations to be established in the study area. It was felt
that service stations are undesirable uses and that the study area is
already adequately served by numerous service stations located just
outside the study area. Additionally, it was felt that commercial
uses in the Kings Court area should be oriented to serve the local
residential community. Consequently, in the land use recommendations
adopted by the Planning Board, this site and adjacent properties on
Philadelphia Road are designated for "neighborhood commercial" uses.
This land use designation calls for retail, office, and service
commercial uses which would be relatively nuisance free and which
would provide a convenience to the local residential community. In
order to implement this recommendation, the Philadelphia Road
Corridor Study presents a potential zoning map amendment that would
prevent the development of an automotive service station on this site
by removing the existing CNS zoning (see Exhibit B). This potential
zoning map amendment will be considered by the Planning Board and the
County Council in the 1992 Comprehensive Zoning process.

Based on the above information, I do not support the special
exception request. However, if a special exception is granted, the
requested variance from Section 405.4.B.2 of the Baltimore County

Lloyd/Amoco Oil Co., Item 490
Page Two
August 6, 1991

Zoning Regulations (B.C.Z.R.) should be denied because the abutting
property is zoned and used for residential purposes. Furthermore,
the proximity of a 24 hour-a-day car wash to the existing dwelling on
the abutting property is a matter of great concern because of the
potential noise impact. Therefore, strong consideration should be
given to denying this facility.

If there should be any further questions or if this office can
provide additional information, please contact Dennis Wertz in the
Office of Planning at 887-3480.

PK/JL/cmm

ITEM490/ZAC1

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Commissioner/Deputy Zoning Commissioner
DATE: December 17, 1993

FROM: John J. Sullivan
Planner II

SUBJECT: Building Permit No. B181877, B181878, B181879 (C-1733-93)
Zoning Case No. 91-498-XA
Circuit Court File No. 92-CV-5441

This site was the subject of zoning hearing case number
91-498-XA. The petition was denied by the zoning commissioner, appealed
and reversed by the County Board of Appeals (Board), affirmed by the
Circuit Court (Court) and remanded back to the Board. The Court and
Board's order referred to the site plan as petitioner's exhibit number
2. However, the site plan in the hearing file was not labeled as such.
I went to the Circuit Court Clerk and viewed their file but it contained
no site plan. There was a note that it went to the Board on July 12,
1993. I went to the Board and was told that the plan was sent back to
the circuit court file on July 26, 1993.

In the absence of a hearing plan labeled "Petitioner's Exhibit 2", I
phoned the petitioner's attorney, Anthony DiPaula. Mr. DiPaula verified
today that the plan in the hearing file was in fact the plan reviewed by
the Zoning Commissioner, the Board and the Court.

cc: John H. Almond, Clerk of the Court
Kathleen Weidenhammer, Board of Appeals
Zoning Case Number 91-498-XA
Building Permit File

JJS:jaw

MICROFILMED

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Commissioner/Deputy
Zoning Commissioner
DATE: December 17, 1993

FROM: John J. Sullivan
Planner II

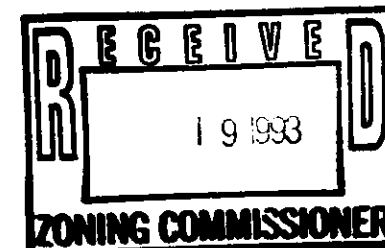
SUBJECT: Building Permit Nos. B181877, B181878, B181879 (C-1733-93)
Zoning Case No. 91-498-XA
Circuit Court File No. 92-CV-5341

This site was the subject of zoning hearing case number 91-498-XA. The petition was denied by the zoning commissioner, appealed and reversed by the County Board of Appeals (Board), affirmed by the Circuit Court (Court) and remanded back to the board. The Court and Board's order referred to the site plan as petitioner's exhibit number 2. However, the site plan in the hearing file was not labeled as such. I went to the Circuit Court Clerk and viewed their file but it contained no site plan. There was a note that it went to the board on July 12, 1993. I went to the Board and was told that the plan was sent back to the circuit court file on July 26, 1993.

In the absence of a hearing plan labeled "Petitioner's Exhibit 2", I phoned the petitioner's attorney, Anthony DiPaola. Mr. DiPaola verified today that the plan in the hearing file was in fact the plan reviewed by the Zoning Commissioner, the Board and the Court.

c: John H. Almond, Clerk of the Court
Kathleen Weidenhammer, Board of Appeals
Zoning Case Number 91-498-XA
Building Permit File

JJS:jaw



Development Consultants & Associates, Inc.
3410 Woodstock Avenue
Baltimore, Maryland 21213
(Pager) 410-271-2558 (Office) 410-235-6811
(Fax) 410-467-9925

January 23, 1995

Mr. Arnold Jablon, Director
Zoning Administration & Development Management
Room 113 Baltimore County Office Building
111 W. Chesapeake Ave.
Towson, Md. 21204

Re: Proposed Amoco gas station,
convenience store and car
wash
9519 Philadelphia Road

Dear Mr. Jablon:

The subject property was granted a special exception and variance as a result of Case #91-498-XA. Building permits and grading and stormwater management plans have been submitted to the county and are awaiting final approval.

In order to insure that construction is begun and continued with reasonable diligence within a two-year time frame from the date of the final order, Amoco is respectfully requesting a letter verifying when this final date will be.

If you have any questions, please contact me at 235-6811.

Very truly yours,

Nicholas B. Commodari
Agent for Amoco

January 27, 1995 15th Election District

Dear Mr. Commodari:

The zoning special exception in this case was affirmed by the circuit court for Baltimore County in case number 92-CV-5341/91-498-XA on the 12th day of April, 1993. Zoning special exceptions must be "utilized within a period of two years from the date of the final order granting same..." per Section 502.3 of the Baltimore County Zoning Regulations. Therefore, this special exception is effective until April 12, 1995, by which time substantial construction must commence for the special exception use to be deemed to have been used.

JLL:jaw



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 19, 1993

Anthony J. DiPaola, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 91-498-XA
Circuit Court Case No. 92-CV-5341
Amoco Oil Company /Clarification

Dear Mr. DiPaola:

Enclosed please find a copy of the Clarification of Supplemental Opinion and Order, as requested by letter dated July 30, 1993, issued this date by the County Board of Appeals of Baltimore County in the subject matter.

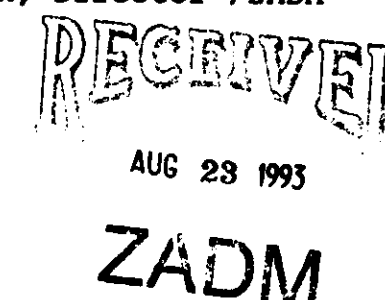
Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

encl

cc: Charles T. Bogdanowicz
Michael P. Tanczyn, Esquire
Lawrence W. Clow
Stanley Lloyd
Thomas J. Hoff
Nicholas Commodari
L. Rodney Compton
Gloria J. Turner
Jan Walter
Hunter E. Bush
Marie Simoes
Ed Kormanis
Chad Kormanis
P. David Fields
People's Counsel for Baltimore County

Honorable Alfred L. Brennan, Sr.
Copy /Circuit Ct File 92-CV-5341
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 22, 1993

Anthony J. DiPaola, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 91-498-XA
Circuit Court Case No. 92-CV-5341
Amoco Oil Company

Dear Mr. DiPaola:

Enclosed please find a copy of the Supplemental Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter, pursuant to the Remand Order of the Circuit Court.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl

cc: Charles T. Bogdanowicz
Michael P. Tanczyn, Esquire
Lawrence W. Clow
Stanley Lloyd
Thomas J. Hoff
Nicholas Commodari
L. Rodney Compton
Gloria J. Turner
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Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM



IN THE MATTER OF THE APPLICATION * ON REMAND FROM THE
OF AMOCO OIL COMPANY FOR A * CIRCUIT COURT
SPECIAL EXCEPTION AND VARIANCE *
ON PROPERTY LOCATED ON THE *
SOUTHEAST CORNER OF PHILADELPHIA * FOR
ROAD AND MIDDLE RIVER ROAD * BALTIMORE COUNTY
(9519 PHILADELPHIA ROAD) *
15TH ELECTION DISTRICT * CG Doc. No. 24
5TH COUNCILMANIC DISTRICT * Folio No. 252
LAWRENCE W. CLOW, PLAINTIFF * File No. 92-CV-5341

ZONING CASE NO. 91-498-XA
SUPPLEMENTAL OPINION PURSUANT TO REMAND ORDER
OF THE CIRCUIT COURT DATED APRIL 12, 1993

This case comes before this Board on a Remand Order from the Circuit Court for Baltimore County specifically designating that the Board's Opinion and Order address the variances associated with this case.

The first variance seeks relief in the area of the sign which contains 200.3 sq. ft. in lieu of three separate signs of 100 sq. ft. as permitted. Testimony from Charles Bogdanowicz was to the effect that the sign as requested is a standard Amoco sign in use in all their modern gas-and-go stations. He further testified that the State requires that all their gasoline product pricing be displayed on the sign. The Board is therefore of the opinion that to require anything other than the standard sign in use in all their stations would be an unreasonable hardship, and therefore the variance to permit this sign properly installed with proper setbacks should be granted.

The second variance concerns the requirement that a 10-foot setback be provided between the fence and the internal area of the property. Zoning regulations require that a 6-foot board-on-board fence be installed on the property line to screen the station from

Case No. 91-498-XA /92-CV-5341 Amoco Oil Company /On Remand 2
the abutting properties. Testimony from Thomas Hoff, a landscape expert, was to the effect that if this variance was denied traffic flow would be impeded. He further stated that the proposed plantings testified to in this case were in excess of those required under Baltimore County regulations. From this testimony, the Board is convinced that the 10-foot setback be reduced to 5 feet on the western property line and reduced to 6 feet abutting the proposed carwash, and therefore this variance should be granted, and will so order. Accordingly, the Opinion and Order of the Board dated May 7, 1992 is supplemented as follows.

ORDER

ACCORDINGLY, IT IS this 22nd day of July, 1993 by the County Board of Appeals of Baltimore County
ORDERED that the Opinion and Order of the Board dated May 7, 1992 be and is hereby SUPPLEMENTED as follows; and it is
THEREFORE ORDERED that the requested variance for a sign which contains 200.3 sq. ft. in lieu of three separate signs of 100 sq. ft. as permitted be and is hereby GRANTED; and it is further
ORDERED that the requested variances for a 5-foot setback on the western property line and a 6-foot setback abutting the proposed carwash, as shown on Petitioner's Exhibit 2, be and are hereby GRANTED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman
S. Diane Levero
Michael B. Sauer